



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO. 1372 OF 2025

(397(Cr.PC) / 438(BNSS))

BETWEEN:

B. THILAK
S/O BASKARAN
AGED ABOUT 43 YEARS
PROPRIETOR, SIVAKASI COLOR PRINTERS
NO. 22/693, K.S.A. RAJADURAI NAGAR
SIVAKASI, VIRUDHUNAGAR DISTRICT
TAMIL NADU - 626 123.

...PETITIONER

(BY SRI. DHANACHANDRA PRAKASHK, ADVOCATE FOR
SRI. K VIJAY KUMAR., ADVOCATE)

AND:

PRIYANKA V S
D/O V SRIDHAR
AGED ABOUT 40 YEARS
NO.54, 6TH CROSS
I STAGE, GOKULAM
MYSURU - 570 002.

...RESPONDENT

(BY SRI. SHIVARAMA BHAT O., ADVOCATE)

THIS CRL.RP IS FILED U/S 438 R/W 442 OF BHARATIYA
NAGARIK SURAKSHA SANHITA, 2023 PRAYING THAT TO SET
ASIDE THE ORDER DATED 25.07.2024 PASSED BY THE
LEARNED VI ADDL. CIVIL JUDGE AND JMFC AT MYSURU IN
CC.NO.8619/2021B AND ETC.,

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:



CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

Heard Sri.Dhanachandra Prakash for Sri.K.Vijay Kumar learned counsel for the revision petitioner and Sri.Shivarama Bhat.O learned counsel for the respondent.

2. Accused who suffered an order of conviction in CC.No.8619/2021 confirmed in Crl.A.No.298/2024 for the offence punishable under Section 138 of the Negotiable Instruments Act is the revision petitioner.

3. The facts in the nutshell which are utmost necessary for disposal of the present petition are as under:

3.1 A complaint came to be lodged under Section 200 Cr.P.C. alleging the commission of offence punishable under Section 138 of Negotiable Instruments Act by contending that complainant and accused had the business relationship, as accused used to purchase the materials from SVS Enterprises represented by V.Sridhar as



proprietor. Complainant is the daughter of said V.Sridhar, who is acquainted with the accused in the year 2018 and on account of financial constraints and to develop the business and also for the family necessity, for construction of the house, accused said to have borrowed a sum of Rs.27,00,000/- from complainant through cash on various dates from December 2018 to March 2020.

3.2 Towards the repayment of the said amount, accused issued Cheque bearing No.644716 dated 05.08.2021 in a sum of Rs.27,00,000/- drawn on Axis Bank, Sivkashi Branch, which on presentation came to be dishonored with an endorsement 'account closed'. Legal notice was issued and there was no compliance to the callings of notice and therefore, action was sought.

3.3 Learned Trial Magistrate after completing the necessary formalities, secured the presence of the accused and recorded the plea. Accused pleaded not guilty. Therefore, trial was held.



3.4 Learned Trial Magistrate in order to prove the case of the complainant, she got examined herself as PW1 and placed on record 13 documents which are exhibited and marked as Ex.P1 to Ex.P13 comprising of cheque, return memo, office copy of the demand notice, postal receipt, courier receipt, postal acknowledgment, on demand promissory note, consideration receipt, cheque deposit receipt, confirmation and intimation letter, certificate issued by the chartered accountant, vakalath and signature of the accused.

3.5 As against the material evidence placed on record, the accused got examined himself as DW1 and placed on record a sole document which is the account closure report as Ex.D1.

3.6 Learned Trial Magistrate after consideration of the material on record in a cumulative manner noted that defence evidence was not sufficient to rebut the presumption available to the complainant under Section



139 of the Negotiable Instruments Act, 1881 and convicted the accused and sentenced as under:

"The accused is sentenced to pay fine of Rs.27,10,000/- (Twenty Seven Lakh Ten thousand rupees only). In default of payment of fine, the accused shall undergo simple imprisonment of a period of 1 year."

3.7 Being aggrieved by the same, accused filed an appeal before the District Court in Crl.A.No.298/2024.

3.8 Learned judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and on re-appreciation of the material on record, dismissed the appeal by considered judgment dated 14.08.2025.

3.9 Being further aggrieved by same, accused has filed the present revision petition.

4. Sri.Dhanachandra Prakash, reiterating the grounds on behalf of Sri.Vijay Kumar.K learned counsel for the petitioner would contend that both the Courts have not properly appreciated the material on record and wrongly



convicted the accused for the offence punishable under Section 138 of the Negotiable Instruments Act and sought for allowing the revision petition.

5. Per contra, Sri.O.Shivarama Bhat learned counsel for the respondent supports the impugned judgments.

6. Having heard the arguments of both the sides, this Court perused the material on record meticulously. On such perusal of the material on record, cheque marked at Ex.P1 belongs to the accused and signature found therein is that of the accused, though it was sought to be denied by the accused.

7. Further, DW1 (accused) in his cross-examination denied the acquaintance of the complainant. He maintained that he does not know whether the complainant is the daughter of Sri.V.Sridhar who is the proprietor of SVS Enterprises. However, on the next date of cross-examination, he categorically admits that he



knows that the complainant is the daughter of Sri.V.Sridhar. The transactions entered into between the parties, including the on demand promissory note is not denied by the accused.

8. Further, the accused has come up with a theory that the cheque-in-question was in fact given to Sri.Ponnuswamy, who in turn handed it over to the complainant. Therefore, there is a misuse of the cheque and as such, there is no legally recoverable debt under Ex.P1. As such, conviction of the accused for the offence punishable under Section 138 of the Negotiable Instruments Act is illegal.

9. To probabilise such a defence, accused has failed to issue notice to Ponnuswamy or cite him as a witness and examine him on his behalf. Further, no normal prudent person would keep quiet if a cheque that too in a sum of Rs.27,00,000/- is misused. No criminal action has been taken against Ponnuswamy or the complainant even



after the accused engaged the services of an advocate to defend him in the pending criminal case.

10. Accused being a businessman who had the transaction with the father of the complainant for long and later on with the complainant cannot turn around and say that the complainant is a stranger.

11. The cross-examination of DW1 in this regard would contradict the stand taken by the accused that there is a misuse of the cheque. Thus, when the theory of the misappropriation of the cheque which was issued to Ponnuswamy fails, there is no other rebuttal evidence placed on record which would be sufficient enough to rebut the presumption available to the complainant under Section 139 of the Negotiable Instruments Act.

12. Further, under Section 118 of the Negotiable Instruments Act, holder in due course is having a statutory presumption. Thus, on considering the presumption available to the complainant under Section 118 and under



Section 139 of the Negotiable Instruments Act, complainant, having been in a position to establish the case, that accused is due sum of Rs.27,00,000/- not only by placing the cheque on record but also on the on-demand promissory note, the learned Trial Magistrate convicting the accused following the dictum of the Hon'ble Apex Court in the case of **RANGAPPA vs. SRI MOHAN** reported in **(2010) 11 SCC 441** is just and proper. Learned judge in the First Appellate Court has rightly re-appreciated the said aspect of the matter.

13. This Court, having regard to the limited revisional powers, cannot revisit into the factual aspects of the matter in upsetting the finding recorded by Trial Magistrate and confirmed by the First Appellate Court in the light of the principles of law enunciated by the Hon'ble Apex Court in the case of **RANGAPPA vs. SRI MOHAN** reported in **(2010) 11 SCC 441**, **RAJESH JAIN vs. AJAY SINGH** reported in **(2023) 10 SCC 148** and **SANJABIJ**



TARI vs. KISHORE BORCAR & ANR reported in **2025 SCC
ONLINE SC 2069.**

14. Accordingly, following:

ORDER

- (i) Revision petition is dismissed.
- (ii) Amount in deposit is ordered to be withdrawn by the complainant under due identification.
- (iii) Balance amount to be paid on or before 20.05.2026.

**Sd/-
(V SRISHANANDA)
JUDGE**

DS
List No.: 2 SI No.: 45